

BUDGET & FINANCE COMMITTEE

Of the

Suffolk County Legislature

A meeting of the Budget & Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on August 15, 2006.

Members Present:

Legislator Ricardo Montano • Chairman
Legislator Louis D'Amaro • Vice•Chair
Legislator Jon Cooper
Legislator Vilorio•Fisher
Legislator Cameron Alden
Legislator Daniel Losquadro

Members Not Present:

Legislator Jay Schneiderman

Also In Attendance:

Presiding Officer William Lindsay • District #8
Legislator John Kennedy • District #12
George Nolan • Counsel to the Legislature
Bob Martinez • Aide to Legislator Montano
Terry Pearsall • Chief of Staff to Presiding Officer Lindsay
Linda Burkhardt • Aide to Presiding Officer Lindsay
Renee Ortiz • Chief Deputy Clerk of the Legislature

Robert Lipp • Deputy Director/Budget Review Office
Paul Perillie • Aide to Minority Caucus
Eric Brown • Aide to Legislator Schneiderman
Justin Littell • Aide to Legislator D'Amaro
Ben Zwirn • Assistant County Executive
Brendan Chamberlain • County Executive Assistant
Amy Engel • County Executive Assistant
Dennis Brown • Bureau Chief•Municipal Law Division/CA's Office
Kevin Rooney • Chief Executive Officer/Oil Heat Institute
Mike Sharkey • President/Deputy Sheriff Police Benevolent Association
Sandy Sullivan • Legislative Director/AME
All Other Interested Parties

Minutes Taken By:

Alison Mahoney • Court Stenographer

(*The meeting was called to order at 9:35 AM*)

CHAIRMAN MONTANO:

We'll call the meeting to order with the Pledge of Allegiance led by Legislator Cooper.

Salutation

Thank you. We don't have any correspondence today. We do have one card from Mr. Kevin Rooney from the Oil Heat Institute of Long Island. Kevin, you want to step forward? You have more than three minutes.

MR. ROONEY:

Hey, thank you, I appreciate that. My name •• for the record, my name is Kevin Rooney, I'm the Chief Executive Officer of the Oil Heat Institute of Long Island. On behalf of the heat oil industry which I represent and the overwhelming majority of Suffolk County homeowners whom we serve, I

have come before this Legislature on numerous occasions to voice our support for various resolutions to encourage the expanded production, distribution and use of bio•fuels in the transportation, electrical production and heating markets.

While I understand that the Law Department does have some concerns with this particular resolution, in short, the Oil Heat Institute strongly supports the concept behind IR 1931, to eliminate the County's Energy Sales Tax on the use of bio•diesel fuel used for residential heating purposes. By definition, bio•fuels are petroleum products which are blended with varying percentages of B•100; B•100 is a product derived from processed soy bean oil. For example, bio•diesel •• or as it is known, B•20 •• is 80% low or ultra low sulfur diesel motor fuel blended with 20% bio•fuel. Bio•heat, or B•5, has a 95•5 blended ratio.

The benefits of expanding the use of bio•fuels are well documented. As an indigenous American•grown petroleum substitute, its expanded use helps both our balance of trade and clearly our national security.

The use of bio•fuels is environmentally proactive, enhancing air quality by reducing potentially harmful air emissions. And lastly, bio•fuel blended petroleum products burn cleaner and more efficiently, thus ultimately reducing petroleum consumption.

Think globally, act locally is not simply a trite slogan on a bumper sticker; it is a way of thinking about who we are and what we do and how each person can make a difference in their community. Let's be honest, if it were to be enacted, IR 1931 is not going to change the energy supply use and consumption landscape on Long Island. But notwithstanding that fact, this resolution is nonetheless a small, incremental and very positive step in moving this County toward a more consumer friendly, environment friendly alternative fuel economy.

And thus, we urge your support, if not for this resolution, for at least the concept of expanding the use of bio•fuel products in the petroleum marketplace, whether it's transportation, energy production, electrical production or heating purposes. And I thank you for your time and I would gladly answer any questions.

CHAIRMAN MONTANO:

I think there are some questions. I actually have one before we start. With respect to the elimination of the tax, do you have any idea what the fiscal implications would be to the County budget, has that been studied by your institute in terms of what it would cost?

MR. ROONEY:

At this point in time, you're looking at a total bio•fuel market, that is a blended market, on the order of probably 10 to 15 million gallons total; that's out of a total petroleum market of better than 650 million gallons. You're looking at one and a half percent over and above the standard, the 1% that was in effect that doesn't constitute the energy tax. On that consumption, you're looking at an impact of between four to \$500,000 annually. Now, realistically ••

CHAIRMAN MONTANO:

That's on this bill.

MR. ROONEY:

Yeah.

CHAIRMAN MONTANO:

Okay.

MR. ROONEY:

Yes, and that is if the one and a half percentage point reduction were implied to the entire price of the product. Realistically, the amount of bio•fuel blended products that are used right now is negligible. Do we expect that to grow over the next two, three, five years? Absolutely.

(* Legislator Vilorio • Fisher entered the meeting at 9:40 AM*)

In fact, I have said repeatedly that probably within the next five years or so, we expect that virtually all petroleum products, distillate, not counting gasoline, distillate products will be bio•fuel blended, both nationally and

certainly here on Long Island; so the fiscal impact could grow without a doubt.

Bear in mind, Mr. Chairman, that since the energy sales tax was implemented some four, five years ago now, four years ago, the price of energy commodities, whether it's oil, natural gas or electricity, has more than doubled, therefore the County sales tax revenues have more than doubled. And I have come before this Legislature •• again, repeatedly •• and argued and spoken in support of permanently repealing the energy sales tax on home heating fuels. But yes, the fiscal impact could grow exponentially over time as more bio•fuel products are used.

CHAIRMAN MONTANO:

Legislator Alden?

LEG. ALDEN:

Thank you. I have a couple of questions, one is about bio•diesel or this bio•fuel. You said soy beans, right, that they use to blend this?

MR. ROONEY:

Yes.

LEG. ALDEN:

We don't grow them on Long Island, though, right? We're growing a little bit.

MR. ROONEY:

Actually, I've had numerous conversations with the Long Island Farm Bureau because I'm working with a number of people who are looking to site a bio•fuels processing plant here on Long Island, a sizeable bio•fuel processing plant on Long Island.

LEG. ALDEN:

Good luck.

MR. ROONEY:

And they would certainly like to use domestically grown bio •• soy beans. The problem is that the value of land on the east end of Long Island in the agricultural communities is so high that you can't possibly grow enough soy beans to make a profit from that land. Wineries are a different matter. The product, the feedstock, if you will, your soil oil, would be transported from the midwest, primarily Kansas, Iowa, Nebraska.

LEG. ALDEN:

Kevin, where does it end up as far as a cost basis for that fuel as opposed to using oil diesel?

MR. ROONEY:

Good question; it's actually about the same. There is a sizeable Federal Tax Credit as an incentive for bio•fuel's production which has been in effect for the last three years and actually was reinstated •• sorry, extended by the Congress; if that were not the case, it would be substantially higher cost •wise.

But, you know, realistically it's like the ethanol market on the gasoline end, as more •• as bio•fuels and ethanol as a percentage of petroleum displacement increases exponentially, as more plants are built, the processed ethanol, the processed bio•fuels, it is expected from an econometric standpoint, that the price will actually come down.

LEG. ALDEN:

Yeah, because right now, though •• and I read an analysis, I forget how long, maybe a year ago, something like that, but the analysis was that the energy used to grow, you know, the soy beans or whatever you're going to use, sometimes sugar beets or sugar cane, but to grow the produce and then to actually process it and then transport it, it ends up using more energy ••

MR. ROONEY:

No, no.

LEG. ALDEN:

No?

MR. ROONEY:

Actually, I would contest that very strongly.

LEG. VILORIA • FISHER:

No.

MR. ROONEY:

It's a misnomer. Yes, there is "energy" used to do grow soy beans, to process them, to blend them into an oil, but the net net energy consumption is less than you would have from using straight petroleum. And that's what you have to look at is the net energy consumption.

LEG. ALDEN:

Do you plan on promoting the use of the blend?

MR. ROONEY:

Absolutely, we are already. There are companies on Long Island, very few at this point, that are selling a blended bio•fuel product. We have an advertising campaign that you will begin to see starting in September, the caption of which is "Oil heat is getting smarter, it now eats its veggies," and it is to promote the use of petroleum products using bio•fuels.

LEG. ALDEN:

If we did what we did last year and that's either reduce the tax on home heating or home energy consumption or eliminate it, that's going to serve part of the purpose of what 1930 does. 1930 is pretty much focused on, you know, trying to use a little bit more of a blended type of fuel.

In the event that we go the other route and we don't pass 1930 and we go just, you know, reduce the home energy tax or eliminate it, what else could Suffolk County do to work with you to promote the use of the blend?

MR. ROONEY:

Actually, Suffolk County is already doing a great deal. And I have to give enormous credit to people like Jim Morgo, to Mike Deering and the various towns that are very active, very aggressively involved in trying to promote

the use of bio•fuels. They're using it in town fleets, they're using it in the County fleets as a "bio•diesel B•20 blend." You know, the County is doing as much as it possibly can at this time. And in fact, I'm very encouraged, this is •• you know, from my industry •• and it almost sounds heretical for someone who represents the petroleum industry to be talking about a petroleum substitute or a petroleum alternative, but realistically, this is one of the more exciting times that I've been involved in this industry because this is the first new product that has come on the market.

And let me just give you one concept of the benefit. If you take heating oil currently and you look at the sulfur content of heating oil, it's on the order of approximately 1,500 parts per million. We were successful in getting the Legislature to pass a provision that allows heating oil dealers to buy tax •free, so there's no motor fuel taxes applied to it, tax•free low sulfur heating oil. If we blend low sulfur heating oil with five to 10% bio•fuels, we can guarantee, based on results and tests from NYSERTA and Brookhaven National Lab, we can cut air emission standards from every heating system on Long Island by better than 92%; that is phenomenal, it's phenomenal, at no more cost to the homeowner. And in fact, because this heating system then runs significantly cleaner, it runs more efficiently and that homeowner or business ends up using less fuel and, as heretical as it may sound, is something that we also support.

So it's •• as much as the County can do, it's great. This is one concept, one idea. It may not work for legal issues in terms of carving out one portion of the energy sales tax, but the whole idea of the County promoting the use of bio•fuels is something that we very, very strongly support.

LEG. ALDEN:

Okay. So we might not do it through this, but we've been doing it, a bunch of different programs.

MR. ROONEY:

Yes, absolutely.

LEG. ALDEN:

Okay. Thanks, Kevin.

CHAIRMAN MONTANO:

Legislator Cooper has some questions for you, Kevin.

MR. ROONEY:

Sure.

CHAIRMAN MONTANO:

Legislator Cooper, your turn.

LEG. COOPER:

Good morning, Kevin.

MR. ROONEY:

Good morning.

LEG. COOPER:

I had a couple of questions. And I'm sorry, you may have addressed this, but what is the current cost per gallon of bio•diesel versus conventional home heating oil?

MR. ROONEY:

At the current •• the current heating oil price, according to NYSERTA, average on Long Island is \$2.82 a gallon. Bio•fuel, B•100 which as you know is pure blended soy oil, is currently averaging about \$2.80 a gallon, so there's no impact at all on price. So a blended product sold to a consumer, there would be no increase in price.

LEG. COOPER:

Oh, right. So actually bio•diesel is a little bit cheaper than conventional ••

MR. ROONEY:

Fractionally at this point in time.

LEG. COOPER:

And I'm assuming that perhaps the greater the demand the greater

production, perhaps even more the price will come down.

MR. ROONEY:

Oh, absolutely, I think that everyone expects that to happen.

LEG. COOPER:

And can any home be operated on bio•diesel or do the systems have to be retrofitted?

MR. ROONEY:

No, no, there's no retrofitting required in a heating system to burn B•5. There is no retrofitting required in a diesel engine to burn B•20. However, to burn higher percentages does require some modification or more sophisticated equipment. For example, if you have a heating system which is say 20 years old, you can burn B•5, you can maybe burn as much as B•8 or B•10 without any modification; anything above that the heating system would not handle it. However, if you had a brand new heating system, whether it's a {Pelis} Weil McLein, {Burnham}, whatever, you can actually burn up to B•20 in a home heating system. And if you have diesel engines later than 2006 using ultra low sulfur fuel, 15 ppm sulfur fuel, you can actually burn up to B•50 in a diesel motor engine without modification.

LEG. COOPER:

As an alternative to •• I'm not quite sure why we need to offer further incentives for bio•diesel since it's already cheaper and probably the differential is going to increase; there are already some incentives, I mean, a number of incentives to go with bio•diesel. But if we decided that we wanted to enact additional additional steps, is there any reason why we couldn't simply ban the use of conventional home heating oil and require the use of bio•diesel? It's cheaper •• I mean ••

MR. ROONEY:

Would you mind waiting until after I've retired to consider that idea? And I've got about another ten years yet, so hold your horses. Realistically ••

LEG. COOPER:

This is your •• you raised the idea, though, Kevin.

MR. ROONEY:

What's the alternative? You know, the idea of •• you can't •• okay. This goes back to my energy policy days at the national level. From a macro economic standpoint, the United States is a petroleum•based economy, it has been for the last hundred years and will continue to be so for at least the next four to five decades.

What we need to do, realistically, is look at additions and substitutes for traditional petroleum uses. And that's where if you encourage E•85 Ethanol, if you encourage bio•fuels in distillate products. And by distillate products, the petroleum market is broken into gasoline and distillates; distillates are everything from jet kerosene, regular kerosene for heating, number two fuel oil which is either diesel motor fuel or heating oil, four oil which is a heavier oil used in apartments and large co generators or six oil which is residual which is used in power plants. There are two steps here. You want to, A, reduce the sulfur content in order to meet new Clean Air Act requirements as well as displace as much as you can of that product. You can displace up to a certain point. You can't burn •• notwithstanding some of the articles I've read, the average automobile cannot burn B•100, it just won't happen. In fact, to be perfectly honest, Mr. Cooper, it's very difficult to buy a diesel engined car in the down state region of New York State and it has been for the last 10 to 12 years because of the fact that the down state region is considered a "non•attainment area" under the Federal Clean Air Act.

Given the fact that diesel motor fuel, as of September 1 of this year, 80% of it has to be 15 ppm, that may lead to the rise, if you will, of a diesel •powered automotive industry certainly here in the down state New York region. But we're not going to completely eliminate petroleum use, what we need to do is try to reduce petroleum use by as much as we possibly can using alternate fuels that are blended with lower sulfur petroleum.

LEG. COOPER:

Well, just following through on my thought process, you had said that certainly all new home heating systems could operate on bio•diesel.

MR. ROONEY:

On B•20.

LEG. COOPER:

Oh, right. And ••

MR. ROONEY:

So you're still using 80% heating oil, 20% bio•fuel.

LEG. COOPER:

Right. So could you envision, would it be practical to require B•20 be used on any new systems that are installed? I'm just wondering what could we mandate?

MR. ROONEY:

Rather than ••

LEG. COOPER:

It would be economically beneficial to the homeowner, it would be beneficial to the environment, it would drive the cost down and it wouldn't have the fiscal impact that this proposal has where BRO is conservatively projecting over a five year period a twelve•and•a•half million dollar hole in our budget that would be generated from the loss in sales tax revenues. So I was wondering rather than going this route, and particularly since we're considering the possibility of having some sort of a rollback in home heating oil in the future in any case, why don't we just mandate the use of B•20 for new systems.

MR. ROONEY:

Because the average homeowner on Long Island can't use B•20 at this point in time. I mean, you can mandate •• I mean, I understand the concept of pressing technology, Mr. Cooper, and that is where you set an arbitrary standard and then industry is compelled to come up with new devices or new ways to meet that standard. I mean, pressing technology has been used ever since the Clean Air and Clean Water and Surface Mining Reclamation Acts were passed back in the Nixon Administration.

LEG. COOPER:

But I thought that you said that new systems, all new systems would operate ••

MR. ROONEY:

A new system.

LEG. COOPER:

That's what I'm saying, so why can't we mandate for new systems?

MR. ROONEY:

Well, is the County going to pick up the 3,500 to \$4,000 cost of replacing all of those heating systems on Long Island in order to burn B•20?

LEG. COOPER:

No, but I'm talking about all the new systems that are installed, why don't we mandate that they use B•20?

MR. ROONEY:

Because now you're •• okay. I think that government works best when government encourages consumers to take actions which are beneficial to themselves and beneficial to the community in which they live.

LEG. COOPER:

But it could be •• there's no reason why we could not mandate that for any new system that they operate on b•20, which is cheaper to the homeowner and more beneficial to the environment.

MR. ROONEY:

I think that you don't have to mandate anything, Mr. Cooper.

LEG. COOPER:

No, I understand that.

MR. ROONEY:

I think that industry itself is moving in that direction because it is good for the industry, it is good for our customers, it is good for the environment. I

don't think it has to be mandated on that level, I think this is just something that's going to happen.

LEG. COOPER:

It clearly doesn't have to be mandated but it could be mandated, there's no reason why it could not be mandated.

MR. ROONEY:

Conceivably it could, yes.

LEG. COOPER:

Thank you.

CHAIRMAN MONTANO:

Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

Thank you, Mr. Chair. Interesting place that we've found ourselves in ••

MR. ROONEY:

Yes, isn't it?

CHAIRMAN MONTANO:

I told you you had more than three minutes.

LEG. VILORIA•FISHER:

Because a couple of years ago ••

MR. ROONEY:

I stuck to my part.

LEG. VILORIA•FISHER:

A couple of years ago you were very helpful when I had two pieces •• for those people who are new to the Legislature, last year, a year and a half ago I had two pieces of legislation regarding bio•diesel. One was that we help with the siting of bio•diesel manufacturing plants here in Suffolk County,

and that's what actually brought Mr. Morgo in to the conversation; you and Mr. Morgo and I met in his office and the rest has been history, so to speak, because he's really become engaged in it.

MR. ROONEY:

Yep.

LEG. VILORIA • FISHER:

And I think we are finally very close to seeing the ribbon cutting of a bio •diesel plant which is the first issue I think that we would have with mandating it at this time, we don't have enough supply to require people to use B •20.

MR. ROONEY:

Right.

LEG. VILORIA • FISHER:

We are not at that level •• oh, where did Legislator Cooper go?
This was answering his question.

MR. ROONEY:

This is for him.

LEG. VILORIA • FISHER:

I'm sorry, Legislator Cooper, I was trying to answer your questions regarding mandates. We can't mandate it until we have enough supply of B •20, and we only have one possible manufacturing plant that will be opening in the near future. So we need to let the market catch up with this.

To answer a couple of the other questions, Legislator Alden asked a question •• and please correct me, I'm sort of making a statement but also asking you because you're the expert. As far as I recall, in some of the conferences that I've attended, Legislator Alden and I attended some conferences at Brookhaven National Laboratories on bio •diesel, as did Legislator Losquadro. And the beauty of bio •diesel, and even growing, if

we're growing soy bean or canola for this, the net energy is negative net energy used to grow it and then burn it.

MR. ROONEY:

Yes, that's correct.

LEG. VILORIA•FISHER:

But there's also, the better part of this is that there's a net carbon dioxide negative impact. In other words, the soy bean, because you're growing vegetation, is absorbing carbon dioxide.

MR. ROONEY:

Right.

LEG. VILORIA•FISHER:

And when it's being burnt with petroleum it reduces the carbon dioxide, so it has a very beneficial effect; this is correct?

MR. ROONEY:

Absolutely, it reduces •• in both instances it reduces CO emissions which are a major contributor to greenhouse gases and dusk global warming.

LEG. VILORIA•FISHER:

Right, so these are some of the benefits. Also, somebody asked a question about where we're getting it and I don't •• I didn't hear you mention this which was •• Kevin, I may have missed it, but not all of the bio•diesel, not all of the bio•diesel that we hope to manufacture here would come from vegetable ••

MR. ROONEY:

A small percentage would come from reprocessed waste oils, yes.

LEG. VILORIA•FISHER:

Recycling. We would also •• and this is a real benefit, especially when we're looking at all of the waste that we have here and restaurants and grease traps and those issues. Those grease traps could be collected and be recycled for use to heat our homes and run some of our equipment. In fact,

there's a potato farmer out east who is using bio•diesel in his farm equipment and the bio•diesel that he's using comes from the potato chips that he's making from the oil in which •• he's growing the potatoes, frying the potato chips, using the oil from the •• the waste oil from frying those potato chips in his farm equipment to again, you know, raise the potatoes.

MR. ROONEY:

The only problem with that is that of the two markets from whence we expect to get feedstock to produce bio•fuel, the waste oil to feed stock to bio•fuel segment is a very small segment and will continue to be a very small segment. Because of the fact that waste products, waste greases which are then processed into a feed stock which is in turn processed into bio•fuels do not currently have an ASTM specification or standard.

LEG. VILORIA•FISHER:

Right.

MR. ROONEY:

In terms of reliability, anyone selling that product or using that product would have to be very, very careful about using that feed stock because it doesn't meet an ASTM specification. And if you use •• and for the lawyers here, if you use a non•spec product and you have problem with your equipment ••

LEG. VILORIA•FISHER:

Your worry about your warranties.

MR. ROONEY:

•• you have voided your warrantees and, therefore, that's very, very •• that's a big issue in the industry. The plant that you're talking about over in Babylon I think it is, which should be announced very shortly, is a very small •scale product •• program, it's only 20 to 25,000 gallons a month.

LEG. VILORIA•FISHER:

Well, that's why I'm saying that it's a little premature to talk about mandates.

MR. ROONEY:

I'm working with a group that hopes to build a plant and announce it relatively shortly, that will produce a half of million gallons a month, that's huge. But the problem that you point out is that right now if you wanted to buy E•85 Ethanol, there isn't enough being produced because believe it or not we can't grow enough corn in this country to meet all of our domestic requirements, our export requirements and produce corn as a feedstock to produce Ethanol.

LEG. VILORIA•FISHER:

That brings me to my next question, because we've heard a lot of talk about switch grass and other types of vegetation that can be used.

MR. ROONEY:

For bio•fuels you can use essentially soy, soy beans, soy oil, canola or rape seed.

LEG. VILORIA•FISHER:

Right.

MR. ROONEY:

Canola is ••

LEG. VILORIA•FISHER:

But some of that can be grown locally.

MR. ROONEY:

Canola isn't •• for example, Brazil, 85% of on•road transportation fuel is Brazil is bio •• is diesel and it's derived from canola which is indigenous to Brazil. In Germany, rape seed, if you've ever been •• if you've ever seen a field that is sort of this glowing yellow plants, beautiful to look at is rape seed and they take those plants and they process them into fuel.

LEG. VILORIA•FISHER:

Is switch grass another name for that?

MR. ROONEY:

Switch grass is a little more difficult and a little more costly. But, you know, realistically when oil was \$30 a barrel, nobody gave a damn about bio•fuels and it was just a dream that people like me had; at \$70 a barrel, all kinds of wonderful things become possible.

LEG. VILORIA•FISHER:

Well, that's a segway into the next thing that I'm going to say. A companion bill to the bill that I had introduced last year to encourage the siting and manufacture of bio•diesel here was that we have a tax break on home heating fuel for those people who use bio•diesel, who use B•20. When I introduced that bill, the reason I introduced it was that bio•diesel was much more expensive ••

MR. ROONEY:

Uh•huh.

LEG. VILORIA•FISHER:

•• than petroleum. At this point in time, the homeowner does not need that cut in •• that tax benefit to switch to bio•diesel because I think that the market will be producing it, we don't have the differential where we would have to try to make all things equal.

MR. ROONEY:

Well, bear in mind, bear in mind that there is a \$1 per gallon Federal tax credit, a producer tax credit on bio•fuels.

LEG. VILORIA•FISHER:

Well, that's my point, so we don't need to go there.

MR. ROONEY:

If that Federal tax credit were to disappear tomorrow, unfortunately the bio•fuels industry would collapse, just as the solar industry collapsed when the Carter solar tax credits went out the window.

LEG. VILORIA•FISHER:

Well, we don't anticipate the bio•diesel Federal tax credit collapsing or

disappearing in the foreseeable future.

MR. ROONEY:

No, I do not.

LEG. VILORIA•FISHER:

My point is that I don't believe that we either have to repeal the tax on home heating fuel if it contains bio•diesel or mandate it, because I believe that with the manufacture of bio•diesel here in Suffolk County where we don't have the expense of transporting it from somewhere elsewhere, where we have come I think we're sophisticated enough to know that we have to face the issue of global warming and other types of •• by the way, we also cut down on the particulate •• you're smiling because I'm going on and on, but you know how ••

MR. ROONEY:

Welcome to the Environment Committee, folks.

CHAIRMAN MONTANO:

I'm trying to stay off that committee.

LEG. VILORIA•FISHER:

Well, what we're trying to do is remember that environmentalists and environmental needs and economic needs are no longer mutually exclusive.

MR. ROONEY:

Absolutely.

LEG. VILORIA•FISHER:

And they've very closely tied. And if we're going to ••

MR. ROONEY:

And there are fiscal impacts from whatever we do.

LEG. VILORIA•FISHER:

There are tremendous fiscal impacts, we're certainly seeing this with the Petro industry. And the point that I'm making is that as I have seen the

price of oil going up and the •• and in the horizon great opportunities for the manufacture of bio•diesel, I have not reintroduced my legislation to give a tax break on those home heating •• those homes that were using home heating fuel that included B•20, or it's B•5 for home heating.

MR. ROONEY:

B•5.

LEG. VILORIA•FISHER:

And by the way, the inspiration I got from that was from Germany ••

MR. ROONEY:

Uh•huh.

LEG. VILORIA•FISHER:

•• where there are 50% tax breaks for those people who are using bio•diesel in Germany.

MR. ROONEY:

That's correct.

LEG. VILORIA•FISHER:

With the Federal government doing this, they finally have stepped up to the plate with environmental efforts. I don't believe that we need to pass 1931. I believe that the trick is to encourage the siting and the manufacture of bio•diesel right here in Suffolk County, I believe that's the answer to it.

MR. ROONEY:

Just for the record, Legislator Fisher, we supported your bill last year, you being a Democrat, we're supporting Mr. Romaine's bill this year, he being a Democrat, just to show that we are truly bipartisan.

LEG. VILORIA•FISHER:

No, no, no.

CHAIRMAN MONTANO:

No, Republican, he's a Republican.

LEG. VILORIA•FISHER:

No, excuse me, that was blaspheme, he's a Republican.

MR. ROONEY:

It is not a partisan issue. But I would agree with you, that government should do whatever it can to encourage the use of alternative fuels and alternative energy. Whether or not we want to play around with a tax code at this point in time, maybe •• may not be necessary, may not be required •

LEG. VILORIA•FISHER:

That's my point precisely.

MR. ROONEY:

•• given the fact that the industry is moving in that direction. But it's a starting point and, if you will, a catalyst for the kind of discussion that we've actually had here today which I think •• and I apologize to the folks who are waiting for other fiscal•type issues, it's the kind of discussion that government and industry should have about how they can work together mutually to achieve this objective.

LEG. VILORIA•FISHER:

And by the way, just so that you know why I waxed on and on, it's because I heard a couple of statements that I felt were incorrect. And because I've been working with bio•diesel now for three years to try to make it happen and move forward, I just wanted to correct it on the record. And sorry for the impatience for those who are not interested in this, but this is a very •• I think there's nothing more important in our economy right now than energy and the use of different types of alternative fuels, especially because we don't want to continue our reliance on middle eastern fuel.

MR. ROONEY:

I agree.

CHAIRMAN MONTANO:

Kevin, this is very interesting and we're going to do it again. Legislator Cooper? Did he leave the room? Oh, no, he's over there.

MR. LIPP:

He's hiding all over the place.

CHAIRMAN MONTANO:

Sorry, I didn't see you there, Jon.

LEG. COOPER:

I'm sorry. Did Legislator D'Amaro go? Because he may have asked my question already.

LEG. D'AMARO:

No, no, go right ahead.

LEG. COOPER:

Okay, good. And this is a question I guess for Counsel. I'm looking at the Resolution, IR 1931, and I don't see any offsets specified.

LEG. ALDEN:

Can you tell him to sit down or does he have to stand there?

LEG. COOPER:

No, no, I do have one more question for you, Kevin.

MR. ROONEY:

Sure. It's okay, I'm very comfortable standing here.

LEG. ALDEN:

You look comfortable.

LEG. COOPER:

So once again, my concern is that projected out, conservatively, we're looking at a shortfall in revenue of about twelve•and•a•half million dollars over a five year period; do you know whether the sponsor has identified any offsets for the loss in revenue?

CHAIRMAN MONTANO:

You're asking me or Counsel?

LEG. COOPER:

Counsel.

MR. NOLAN:

As you know, with the sales tax resolutions I have been saying repeatedly that we shouldn't put offsets in the bills that reduce the tax. What I suggested is there should be or could be an accompanying resolution that details the reductions, the offsets; in this particular case there is no other resolution with offsets.

I should also point out that as I do with all sales tax resolutions, I send it to the State of New York to look at the Department of Taxation & Finance and they advise that you can't pick out one fuel to reduce the tax on or eliminate the tax on, it's all or nothing when it comes to home heating fuel.

LEG. COOPER:

So this •• so there are some inherent problems with this resolution.

LEG. ALDEN:

We can debate that when we get to the bill.

LEG. COOPER:

Well ••

CHAIRMAN MONTANO:

You're asking Counsel, Legislator Cooper?

LEG. COOPER:

Yes.

CHAIRMAN MONTANO:

If there are inherent problems with the bill; you mean legal problems?

LEG. COOPER:

Right, since it's only targeting one particular fuel.

MR. NOLAN:

Right. The State advises that we cannot target one particular home heating fuel for reducing the tax.

LEG. COOPER:

Okay, thank you. And Kevin, one question for you. Moving away from B•20 and going back to the idea of mandates, how about B•5, would it be conceivable at some point to mandate the use of B•5 or B•10?

MR. ROONEY:

Why mandate what is already going to happen?

LEG. COOPER:

But why offer tax incentives for what's already going to happen?

MR. ROONEY:

I understand that, and that's a valid point. But if you believe that the market generally works better than government mandates, which I happen to think, then there's no need to mandate B•5. Mark my words, five years from now B•5 will be the standard, the absolute minimum standard for all distillate products sold in the United States. And in many cases ••

LEG. COOPER:

And you think the only thing holding us back at this point is lack of supply.

MR. ROONEY:

Lack of supply, lack of production and the economics thereof, and I think all of those things will change. My national association, the National Oil Heat Research Alliance, has actually trademarked the term bio•heat. Bio•heat is B•5 and we have •• without belaboring the point, because it does get into the issue of liability and warranties of equipment, the largest manufacture of fuel pumps in the country is a company called SunTech. SunTech recently announced that they would warranty all of their pumps for use with B•5; that shows where the industry is going, and they expect to go beyond that

and next year warranty all of their fuel pumps for up to B•10. So that's where the industry is going.

Mandates at this point are not necessary. I think that there are enough incentives at a Federal level, there are enough incentives at a State level. For example, if you were to use B•5 right now and you used a thousand gallons, when you file your taxes in March of next year, you can take a credit for five cents a gallon for every gallon of B•5 that you used; so if you used a thousand gallons, you just got a \$50 tax credit, thank you to New York State. That's in the State Tax Code; and it's a small amount, but it's an incentive nonetheless. I think the industry is moving in that direction, government is doing what it does best in these regards which is basically standing aside.

LEG. COOPER:

If I wanted to switch at my own home tomorrow to B•5 or B•10, what, I call General Utilities who is my supplier and ask them?

MR. ROONEY:

At this point, at this point, because of the fact that there isn't really enough supply available, your supplier may not be able to sell you that. But I would strongly encourage you to do that, to call your supplier and say, "Look, I want to use B•5. Do you sell it? If you don't, I'm going to call another supplier that does." And that's how consumers can help to generate this market as well, and we encourage, very strongly encourage people to do that.

LEG. COOPER:

So perhaps even more important or significant than either mandates or incentives would be education at this point.

MR. ROONEY:

Yeah, the major suppliers, {Sprague}, Global, Northville, will all be selling B•5 product at their wholesale terminals this winter heating season, and most of the fuel oil companies on Long Island will be selling at least a portion of their product as B•5.

LEG. COOPER:

Okay, thank you.

CHAIRMAN MONTANO:

Kevin, do you have a listing of companies that sell it in your institute?

MR. ROONEY:

At this point, no, we haven't developed one, we're in the process of doing so; and when we do, that will be posted on our website.

CHAIRMAN MONTANO:

Okay. And I just had one comment. It seems to me that this issue of the tax reduction and the home energy fuel reduction possibly is really a part of a bigger picture which is the overall County budget dealing with our revenues and our expenditures.

MR. ROONEY:

Uh•huh.

CHAIRMAN MONTANO:

And, you know, I have long maintained that these issues really are a part of the budget process and they need to be looked at from that perspective and we're coming up to our budget soon. So, you know, with that in mind, I'm also trying to buy time because I think the Clerk walked out of the office and we're going to start taking some votes, are there any other Legislators that want to comment?

LEG. ALDEN:

Yeah.

CHAIRMAN MONTANO:

Go ahead, Legislator Kennedy.

LEG. KENNEDY:

Thank you very much, Mr. Chair. Even though I'm not a member of the committee, I appreciate the opportunity to ask questions. Hello, Kevin. How are you? Nice to see you again.

MR. ROONEY:

I'm fine, thank you.

LEG. KENNEDY:

I just have, I guess it's like a procedural/technical question, relative to the notion of mandate or non-mandate. The heating systems that developers are presently putting in to residential construction has the capability to burn B-5 or does that vary?

MR. ROONEY:

All heating systems currently in use have the capability of burning B-5 without modification, with only minor modification.

LEG. KENNEDY:

So no need to amend the New York State Building Code or anything along those lines?

MR. ROONEY:

Nope.

LEG. KENNEDY:

It's just the standard in the industry at this point, you will not find a system that lacks capability.

MR. ROONEY:

That's correct.

LEG. KENNEDY:

Again, so then really it sounds like, you know, mandate or non-mandate is language or a concept I guess that's superfluous. How •• how •• what do you anticipate as far as the ability to build the supply were, let's say, 50% of the Island's home heating customers to do just what we're talking about, pick up the phone. I call Flag Oil and I say, "I want to burn B-5," and we get this ground swell going; where is •• where is the capability of supply to meet demand at this point?

MR. ROONEY:

If every home on Long Island used B•5 you would need 30 to 40 •• 30 to 35 million gallons of B•100 which is then blended at a 95% to 5% ratio. Right now we do not have the physical capacity to store that much product and use and handle that much product in a given year. So that's something that has terminals, switch from one tank to another, there's limited terminal capacity on Long Island. If you dedicate a tank to B•100, you've got to take it out of service for another fuel, whether it's kerosene, on•road, diesel or whatever.

So the infrastructure has to build up to handle that level of quantity. If we move to B•10 or B•15 or B•20, then that increases expedientially, and then when you add the diesel motor fuel component of that it just goes off the charts. So, you know, it's a matter of infrastructure capability at this point in time, not being able to handle anything much more than about 20% of the population using B•5.

LEG. KENNEDY:

But if we stay on, just for a moment longer, we stay on that concept, essentially all of our crude is coming to us by various means of transportation now anyhow. You know, we have the tankers that are coming in on the sound that are off•loading at the barge system, stuff that's trucked in. So this product is being stored in locations off Island at this point that's coming to us anyhow. We don't receive all of this product from, you know, these various methods with these tank farms that are so expansive, they're coming in stages from other areas to us as it is now already, isn't it?

MR. ROONEY:

Yeah, but bear in mind it's a boutique fuel and by that, you know, this isn't department store•type of product. You're looking at a terminal handling ultra low sulfur fuel, low sulfur fuel, high sulfur fuel, jet kero, regular kero, heating oil, number two heating oil, bio•fuel, B•100, four oil, and then various •• various grades and permutations of gasoline. To be perfectly candid, Mr. Kennedy, there just aren't that many tanks around that can handle that many different products. Something within the infrastructure of the petroleum supply and distribution system on Long Island, something is

going to have to give and it depends on the economics as to what might happen there.

But again, we're •• you know, we're just kind of at the beginning of this long path in to a very different energy future. And you know, I mean, it's baby steps at this point in time, but we'll •• you know, the market and consumers will determine what gets built and what gets used and what gets sold. So you know, I think the next three to five years are going to be very clear •• will clear up a lot of the uncertainty that exists right now.

LEG. KENNEDY:

Okay, thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTANO:

Thank you, Legislator Kennedy.

All right, Robert, do you want to weigh in on this or we can move right to the agenda? Do you have anything that you want to bring forward to the committee? Before that, Kevin, I want to thank you very much, it's been interesting.

MR. ROONEY:

It's my pleasure, I really have enjoyed it.

CHAIRMAN MONTANO:

Good. We'll do it again, for sure.

MR. ROONEY:

Any time.

CHAIRMAN MYSTAL:

Is there anyone else •• before you go, Robert, is there anyone else that would like to address the Budget & Finance Committee? If not, I'll turn it over to BRO.

MR. LIPP:

I think at this point it would be expeditious to just move along.

CHAIRMAN MONTANO:

Sounds good to me. All right, we're going to get to the agenda.

Tabled Resolutions

1523•06 • Amending the 2006 Operating Budget and transferring funds to Pederson•Krag Mental Health Clinic (Mystal). I'm going to make a motion to table.

LEG. COOPER:

Second.

CHAIRMAN MONTANO:

All in favor? Opposed? Abstentions? ***Motion to table carries (VOTE: 5•0•0•2 Not Present: Legislators Losquadro & Schneiderman).***

IR 1646•06 • Adopting Local Law No. 2006, a Charter Law to establish a fiscally sound, flexible policy for managing budget surpluses (Presiding Officer Lindsay). Do we have a motion?

LEG. COOPER:

Motion to approve.

CHAIRMAN MONTANO:

Motion to approve. Do we have a second?

LEG. D'AMARO:

Second.

CHAIRMAN MONTANO:

Okay.

LEG. ALDEN:

On the motion.

CHAIRMAN MONTANO:

On the motion, Legislator Alden.

LEG. ALDEN:

Explanation from Counsel.

MR. NOLAN:

Presently under the Charter, the County cannot return any more than 75% of the positive fund balance at the end of the year to taxpayers. At least 25% has to go into the Tax and Debt Stabilization Reserve Funds. This law would amend that section Charter whereby if the County's Tax Stabilization Fund reached \$120 million, or 5% of the operating budget figure, the County could elect to return more to the taxpayers up to 100% or to use that money that normally now would go in to Tax Stabilization and use it for certain delineated purposes including pay•as•you•go, road maintenance, there's six or seven items listed in the bill, and that's what this law would do. You should be aware that this was amended so this would be subject to a referendum in November.

CHAIRMAN MONTANO:

And does everybody have a copy of the amended version?

LEG. ALDEN:

Yeah, but mine is back in the office, but I have a couple of other things on this.

LEG. VILORIA•FISHER:

I would like to be put on the list.

CHAIRMAN MONTANO:

Sure.

LEG. ALDEN:

We've actually •• we've gone through this debate and it was about, I'm going to just guess, about four or five years ago and it was Marty Haley that ended up with a compromise bill that put 25% of the overage in sales tax

into Tax Stabilization.

Now, one thing you have to keep in mind, and I think it's a good time to actually talk about this, I'm not so sure I would support it but it's a good time to talk about it, right now we have been running on surpluses. One of the things this is going to do is it's going to increase our reliance on turning a fund balance, because at this present •• the present state of the law, 25% of any excess sales tax that comes in goes into a stabilization fund. Now, the net effect of that is you get a very, very cloudy picture presented to the people in Suffolk County because what they're asked to do is they're asked to pay sales tax in advance for a budget that is not going to use it in the year that they're paying it, but it pushes it off to some time in the future. So it's almost like a slush fund that is created when you start relying on these fund balances and it's •• I would think it would be very incumbent upon us to be more transparent with our budgets and actually tax people the amount of money that we're going to spend in a year and then spend that money rather than create a situation like this where we're going to have a bigger surplus of money that was taken away from people in the year •• and I'll just give an example, say 2006 •• we're not going to spend that money for the purposes that we state in the budget at the beginning of the year when we pass our budget. And then in 2007 or 2008, which is a year or two years later, we might spend that money or we might try to make it go into a fund balance in that year for use in a future year.

I don't think that •• you know, personally I don't think that's fair to the people in Suffolk County to tax them in one year and then carry that money over and maybe spend it the next year for a different purpose. So I would like to see us get to the point where, you know, we have a lot smaller fund balances and we do not have this reliance on carrying money over where we've taken the tax, extracted the tax from people in one year and then create •• and I'm going to call it, it's sort of like a slush fund to spend in another year, I don't think that's fair to the people, I don't think it's fair and I don't think it's a transparent form of government. And I'll probably have more to say on this in a little while.

P.O. LINDSAY:

Rick, put me down.

CHAIRMAN MONTANO:

Yes, one second. Counsel, just for the record, did you •• would you put on the record the nature of the amendment that came in in case •• because I know I got it late.

MR. NOLAN:

Sure. Simply, this law would be subject to a referendum on the November ballot.

CHAIRMAN MONTANO:

Okay. Legislator Vilorio•Fisher had some questions and then the Presiding Officer.

LEG. VILORIO•FISHER:

This is either to the sponsor or Counsel. As I read the legislation, the threshold point is \$120 million in reserve funds and my concern is in having an amount that is a fixed dollar amount rather than the percentage of the whole. Because we have seen the rate at which our total budget has grown, for example, over the past ten years and one can assume that over the next ten years it would probably grow at the same type of rate, and so \$120 million might not mean in future years what it means today. And so ••

MR. NOLAN:

Legislator Fisher?

LEG. VILORIO•FISHER:

•• I would have preferred to have seen the percentage. So if you could explain how that would work.

MR. NOLAN:

The law has been amended. Initially it was \$120 million, now it says, "\$120 million or 5% of the General Fund portion of the prior year's operating budget, whichever amount is greater."

LEG. VILORIO•FISHER:

Okay, then I don't have that iteration of it here.

CHAIRMAN MONTANO:

Yeah, I don't see that either in mine.

LEG. VILORIA • FISHER:

I don't see that in my newest copy.

MR. NOLAN:

It would be in Section II of the amendment.

CHAIRMAN MONTANO:

Well, I think her point is •• if I may, Legislator Fisher •• that it's in the body of the bill but it's not in the form of the proposition; is that your point, Legislator Fisher?

LEG. VILORIA • FISHER:

Let me take a look at it. Okay, Mr. Perillie is showing me on page two where it's, "As defined by the adopted budget or 5%"; okay, that's precisely what I was looking for. Thank you, Counsel.

CHAIRMAN MONTANO:

Okay. Legislator •• Mr. Presiding Officer?

P.O. LINDSAY:

Yeah, I just wanted to address some of the comments from Legislator Alden and just get to the genesis of where this bill came from. It came from prior budget negotiations where we were negotiating the Operating Budget, you know, all of us around the table over the years, and we found that we were in a position where we were talking about tax increases to put money in to a Tax Stabilization Fund, and I think around the table we agreed uniformly, there's something wrong with that policy where we tax people to put money in a Tax Stabilization Fund. And that was really the genesis of the whole thing.

I agree with Legislator Alden about this predicament we got into with huge surpluses and I •• you know, I'm not an economist, I don't know how to get

out of that situation quickly, but I don't think that this bill adds to that purpose.

And the other thing that this does do, and it doesn't make it mandatory that it stay at \$120 million, it's really optional. If we have a real good year and, you know, we want to put more money into Tax Stabilization, we have the ability to do that. It just loosens our hands a little bit and gives us the ability to keep taxes, you know, stationary without putting money aside for a rainy day.

CHAIRMAN MONTANO:

Legislator Alden.

LEG. ALDEN:

And Bill, that's pretty much where I thought you were going with this because, you know, we've served on the committee a couple of times together. The problem I had with it, and I think it's a good idea to try to reduce that, but the problem I have is •• and I'll ask Budget Review; in effect, doesn't this give more money that will go to the budget surplus in a given year?

MR. LIPP:

There is discretionary, it may or may not. You could either return it to the taxpayers or you could spend the money on actual appropriations as opposed to •• for specific appropriations as opposed to putting those appropriations in Tax Stabilization Reserve. So it has flexibility.

LEG. ALDEN:

Let's go back, and correct me if I'm wrong then. This money that goes into Tax Stabilization, when we budget and say, okay, we think a dollar is coming in in sales tax and then \$1.25 comes in at sales tax, that 25 cents is what we're talking about here. Because it's mandatory now that a certain position of that go to Tax Stabilization, then the rest of it can go to the bottom line, the surplus; is that not correct?

MR. LIPP:

It's close. The sales tax analogy is not quite because we rescinded the

Haley Bill, if you will, so it's not sales tax but it's 25% of the Discretionary Fund balance goes to Tax Stabilization Reserve as it stands now. This would change that, you wouldn't have •• once we reach \$120 million in Tax Stabilization Reserve, you wouldn't have to do that, you could either return it to the public in terms of lowering property taxes, it would go right to fund balance, as you're saying, or you could •• now, here's the distinction, you could take that money instead of under the current legislation sending it Tax Stabilization Reserve, you could actually spend it, appropriate it for other designated purposes such as snow removal or debt stabilization •• payment of debt service and a select other few things. So it could go either way is the point, it's possible.

LEG. ALDEN:

You need a budget amendment to spend it.

MR. LIPP:

No, no, no. In the recommended adopted budgets you could •• instead of appropriating the money to send to Tax Stabilization Reserve, this quarter, if you will, you could actually appropriate it for specific expenses that are designated in this resolution.

LEG. ALDEN:

Let's go back. The money that goes to Tax Stabilization, that's a budget surplus, right?

MR. LIPP:

Correct.

LEG. ALDEN:

Okay, so a budget surplus occurs some time after the year, after the fiscal year or budget year.

MR. LIPP:

The surplus that is applied, the 25%, if you will, is applied to the last actual year. So for instance, for the 2007 upcoming recommended budget, what

would apply is the 2005 actual, 25% of the 2005 Actual Discretionary Fund balance surplus. So it's already stuff that's already happened.

LEG. ALDEN:

In 2005. The remainder of it goes into what?

MR. LIPP:

As it stands now, the remainder would be go to fund balance effectively.

LEG. ALDEN:

Fund balance which is the 2006 Budget.

MR. LIPP:

It would wind up as 2007 starting year surplus or ending year 2006.

LEG. ALDEN:

And then it gets back to the theory of how do we end up with a surplus, and that's either money that we budgeted and didn't spend or it's money that came in that we didn't anticipate.

MR. LIPP:

At the end of the day, really what happens is there's room for discretion here. It could either further exacerbate or not the surplus, it's not •• this particular resolution, as far as I could see it so far, is not going to either resolve or make more difficult the surplus issue that you're referring to which is a real serious issue, I agree a hundred percent with that. There are other things we need to do to try to come to grips with that and I don't think this resolution is going to go one way or the other in terms of helping or hindering.

LEG. ALDEN:

If you have X number of dollars of surplus and it's mandated right now that 25% of that goes into Tax Stabilization, 75% goes to fund balance, now you're not going to have the money going into Tax Stabilization, so it's going to increase the money that's going into the fund balance which is going to •• I mean, simple math would mean that it's going to increase the problem that we've got growing every day.

MR. LIPP:

But if you spend that money instead of an appropriation to go to Tax Stabilization Reserve, if you spend •• one of the options is if you spend it on allowable •• other appropriations that are listed in this resolution, then it's not going to the surplus; it could also though, the way the language reads, but it doesn't have to. So it's possible that we could have the problem that you're saying, it's possible we might not, it depends on •• it's a policy issue when we recommended and adopt a budget.

LEG. ALDEN:

So there would be a budget amendment to appropriate the money that used to go into the Tax Stabilization to appropriate and spend it in a prior •• not a prior year. In a subsequent year.

MR. LIPP:

That would actually show up in the recommended budget, how the Executive would make a decision which way he wanted to go •• or in the future, perhaps a she •• and then it would be up to the Legislature to determine whether or not that was appropriate or they wanted to make a change, to either allow it to go to surplus or to spend it on designated appropriations.

LEG. ALDEN:

And you don't think that this helps or hinders the budget surplus, and I'm going to call it a problem because it's just growing and growing and growing; you don't think this helps or hinders, you know, the solution of that problem? And you know, there's a couple of other •• there's a couple of other pieces of legislation in here and I think it's the Presiding Officer has them in there, but ••

CHAIRMAN MONTANO:

Well, we'll get to those.

LEG. ALDEN:

No, but I'm just saying, I'm looking at where I'm going to vote on this; is this part of a solution?

MR. LIPP:

The problem that would occur that I could see initially, the problem that would occur with the surplus issue is to the extent that Tax Stabilization Reserve is not larger is the extent that the problem of generating surplus is as great a problem. In particular, we have very large surplus and if we can't regenerate that surplus than other things being equal, there would be a large property tax increase. However, given that we do have a large •• I said other things being equal, I'm not saying that we would do that.

LEG. ALDEN:

Right.

MR. LIPP:

However, given that we have a large Tax Stabilization Reserve Fund, that could always be tapped into to keep property taxes from going up by more than 2 1/2%. So if we dwindled down Tax Stabilization Reserve because of this, it's possible that it could somewhat exacerbate the situation. But this resolution on its own I don't think is going to be a solution or a problem in terms of the surplus.

LEG. ALDEN:

And then a question to the sponsor. Bill, do you so this as allowing, instead of the money being put into the reserve automatically, a big use of that money for other programs or?

P.O. LINDSAY:

I see this giving us more flexibility addressing budgets. And it goes back to two years ago, and I think you were in the room, where Budget Review told us by the numbers, we had to put aside \$10 million in Tax Stabilization money and we had to cut programs or raise taxes to get that \$10 million, and it got us all thinking around the table, what are we doing? I'm not saying \$120 million is a lot of money and it certainly in bad years •• we were both here in 2001 after the terrorist attack where our sales tax fell through the floor and, you know, we needed Tax Stabilization that year in order to avoid massive tax increases to provide services.

LEG. ALDEN:

Well, that's why I applaud you for attacking it.

P.O. LINDSAY:

But we think \$120 million, you know, in years where we're on the bubble, where we don't know whether we're going to be able to stabilize taxes or raise taxes, if we don't have to put aside that other \$10 million, it enables us to stabilize taxes which I think is on all our minds. In a year that we have a huge surplus, you know, we'd have the option of putting more money in, and once we catch up to that 5% mark we have to continue putting money in.

LEG. ALDEN:

Did you get the answer to this question? If we don't increase our Tax Stabilization •• because the Tax Stabilization contributes to our rating as far as bonding.

P.O. LINDSAY:

Right.

LEG. ALDEN:

If we don't increase it, if we do this, will that have any effect on the bonding?

P.O. LINDSAY:

I think both Budget Review and the County Executive's Budget Office agree that the 120 million that we'll have at the end of this year satisfies the rating agencies.

LEG. ALDEN:

Okay, good. Thanks.

CHAIRMAN MONTANO:

If I may, Mr. Presiding Officer, this bill puts the issue before the Electorate in November.

P.O. LINDSAY:

Yeah, and originally it didn't and, you know, Counsel felt very strongly we weren't mandated to do that, but I didn't want to face the criticism of not letting the Electorate decide on this important issue.

CHAIRMAN MONTANO:

Thank you. Any other comments?

LEG. ALDEN:

Through the Chair, just one quick ••

CHAIRMAN MONTANO:

Legislator Alden.

LEG. ALDEN:

Could Counsel read, you know, the question that is going to be put before the Electorate? Because sometimes they have trouble ••

MR. NOLAN:

This was a tough question ••

LEG. ALDEN:

Yeah.

MR. NOLAN:

•• to write because it's complicated. The question is going to be, "Shall Resolution No. 2006, Adopting a Charter Law to authorize the County of Suffolk to return a larger share of surplus revenues to taxpayers, or in the alternative to use such surplus revenues for certain limited purposes including debt reduction, disaster preparedness, road maintenance and payment of utility costs and once the County Tax Stabilization Fund reaches \$120 million, be approved?" And that was a tough one.

LEG. ALDEN:

It's going to be interesting to see how many people actually can interpret that.

P.O. LINDSAY:

It's a highly technical issue that's going to be hard to explain to people, I realize that. I mean, even discussing it here when all of us have sat around the table wrestling with an operating budget, we have questions about it. The only point that Legislator Cooper just pointed out to me is, you know, maybe the proposition should be adopted to add the 5% as well, George, or is that problematic?

LEG. VILORIA•FISHER:

That's what I was about to suggest, slash 5%.

MR. NOLAN:

The only problem with that is we're past the deadline to make amendments to the law, so it could not be voted on at the next meeting.

P.O. LINDSAY:

And it has to be voted on at the next meeting to get it on the ballot.

MR. NOLAN:

It has to be •• we have 60 days prior to the election to get everything done, including passing it, having the County Executive hold a public hearing, getting his signature and getting it up to the Secretary of State. So I think it would be very problematic to try to amend the law now.

P.O. LINDSAY:

Well, I could possibly ask the Executive to give us a CN making that change.

MR. NOLAN:

That's a possibility. Of course, you would have to hold the public hearing, another public hearing at the meeting. You know, in terms of the wording, I don't think it makes it defective not to have the 5% in there. I think we tried to do the best we could to make it understandable to voters, I think that what we're doing is •• it's going to be hard to communicate it any clearer and I think if you add more language it may only confuse matters.

P.O. LINDSAY:

In terms of ••

MR. NOLAN:

So you might want to leave it just the way it is.

P.O. LINDSAY:

In terms of a one•liner of explaining it, it's simply we don't want to tax people to put money away for a future deficit; I think that is what resonates.

CHAIRMAN MONTANO:

Legislator Viloria•Fisher?

LEG. VILORIA•FISHER:

George, I was thinking that perhaps if it is too late to put the 5% in this language, when there are complicated propositions like this on the ballot there's usually a description of the item in the referendum and perhaps the 5% could be written in to that language.

MR. NOLAN:

Right. We'll have to prepare an abstract which will be available to voters at the polling places and that would definitely have that information in there, that the people could use to try to figure out what this means.

LEG. VILORIA•FISHER:

Yeah, something this heavy I think people might be reading the abstract. And it would also be listed in the newspapers to help people understand the proposition question.

MR. NOLAN:

Yes.

LEG. VILORIA•FISHER:

So I think, Bill, if it were included in the abstract that would clarify it for people.

P.O. LINDSAY:

The point of the matter is that if we don't do something like this, especially if we don't solve the problem of the surpluses, the Tax Stabilization Fund is

going to continue to rise with no cap on it. It's like the good news is you have a lot of money in Tax Stabilization, the bad news is the only way that you can access it is to raise taxes and it's a difficult dilemma.

CHAIRMAN MONTANO:

All right. Legislator •• well, I ••

MR. LIPP:

Just as a point of information, it will take me three seconds.

CHAIRMAN MONTANO:

Go ahead.

MR. LIPP:

Just so you're aware, the 120 million is approximately, or a little over actually right now, 6% of the General Fund budget as opposed to the 5%. So it would last for several years, that cap conceptually, and only several years down the road would it bump against the 5% constraint and then it would have to rise above 120.

P.O. LINDSAY:

And the other thing is the 120 million accrues interest every year, so even without putting any more money in it, it's going to continue to grow.

CHAIRMAN MONTANO:

Legislator Alden, did you have another comment?

LEG. ALDEN:

Yeah, just another question. Bill, why did you •• I know you touched on it just a minute ago; why did you feel that you needed to do it as a referendum, because of criticism from?

LEG. VILORIA • FISHER:

Rick, I have another question.

CHAIRMAN MONTANO:

Okay.

P.O. LINDSAY:

Well, there was criticism from a couple of sectors; one of the local newspapers did an editorial about not doing a referendum, the Executive wanted a referendum. And I, you know •• all parties felt so strongly about it, I said give, you know, the voters the right to decide on it.

MR. NOLAN:

Can I add to that explanation? When this law was initially adopted requiring the money to go into Tax Stabilization Fund, it was done by a referendum and the original law had language in it saying that in the future, if there were any changes to this law, it would have to be done by another referendum.

LEG. ALDEN:

Okay.

MR. NOLAN:

Now, I don't think that language is binding on us, but I think that is the legal argument for why we're doing a referendum; I personally disagree, but that's part of the puzzle as well.

CHAIRMAN MONTANO:

All right, Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

I have a question for Budget Review regarding interest that's accrued on this money. When we were discussing the reserve fund in the college budget and we asked a question about that reserve fund and whether or not it's invested and where the interest is deposited, that interest from that fund was deposited into the General Fund and, in fact, the reserve fund then didn't grow, I believe is what we were told at that time. I'm assuming the same is not true here, that if, in fact, if we have this \$120 million in surplus and it is invested, would that interest accrue to the reserve fund •• I mean to the surplus or would it accrue to the General Fund?

MR. LIPP:

For the Tax Stabilization Reserve Fund it stays in the fund, it is a 400 level fund which is a reserve fund; in broad strokes, about five million a year in interest. So in particular, we're at like \$117.9 million in the Tax Stabilization Reserve Fund at the end of 2006; next year, if we don't put a dime in, we will exceed 120 million anyhow because of the interest. In the case of the college, that money didn't flow through the General Fund, it stayed as part of the college but it stayed in the college ••

LEG. VILORIA•FISHER:

But not in the reserve fund.

MR. LIPP:

•• operating fund as opposed to the reserve fund, for the college though.

LEG. VILORIA•FISHER:

Okay. I just wanted to double check on that because Legislator Lindsay mentioned that it would continue to grow and I just wanted to be clear that, in fact, it was accruing to that.

MR. LIPP:

It will be dedicated, yes.

LEG. VILORIA•FISHER:

Okay, thank you.

CHAIRMAN MONTANO:

Counsel, I think you wanted to add something?

MR. NOLAN:

Just that this will not have any effect on the 2007 budget preparation because we have the referendum, so it's going to be next time we do the budget, 2008.

CHAIRMAN MONTANO:

Thank you. I'm going to call ••

P.O. LINDSAY:

And just an observation is that it wouldn't anyway, even if we passed it without a referendum, because we're not at the 120 million yet; we will reach that benchmark in '07

CHAIRMAN MONTANO:

Okay.

LEG. ALDEN:

That's a lousy interest rate we're getting, though.

CHAIRMAN MONTANO:

We'll take that up next month.

LEG. ALDEN:

You guys should figure some way out.

LEG. VILORIA • FISHER:

Speak to our Treasurer.

CHAIRMAN MONTANO:

I'm going to call a vote. We have a motion to approve on the table and a second. Any other comment? Motion to approve. Those in favor? Opposed? Abstentions? Motion carries unanimously. **Approved (VOTE: 5•0•0•2 Not Present: Legislators Losquadro & Schneiderman).**

1658•06 • Electing a cents per gallon rate of sales and compensating use taxes on motor fuel and diesel fuel in lieu of the percentage rate of such taxes pursuant to the authority of Article 29 of the Tax Law of the State of New York (Romaine). I'm going to ask for a brief explanation from Counsel.

MR. NOLAN:

This is the resolution that's been hanging out for a while that would cap the County sales tax at \$3 a gallon ••

CHAIRMAN MONTANO:

Two dollars?

MR. NOLAN:

Two dollars a gallon, I apologize.

CHAIRMAN MONTANO:

Okay. I'm going to make a motion ••

LEG. ALDEN:

Motion to approve.

LEG. COOPER:

Motion to table.

LEG. D'AMARO:

Second.

CHAIRMAN MONTANO:

All right, motion to table takes precedent. Any comment on the motion? The motion was made by Legislator Cooper, seconded by Legislator D'Amaro.

LEG. ALDEN:

The failing motion was made by Legislator Alden.

CHAIRMAN MONTANO:

Well, it wasn't failing, it just didn't get a second.

LEG. ALDEN:

Well, no, it was overridden, superceded.

CHAIRMAN MONTANO:

Well, no, it wasn't superceded because it didn't get a second. It would have to get a second to be superceded, but I'm not going to argue the point with you.

LEG. COOPER:

Cameron, I thought it was a great motion.

LEG. ALDEN:

I wish I had more time to try to work up the enthusiasm, but right away there was that tabling motion that came in.

CHAIRMAN MONTANO:

You want me to redo it?

LEG. ALDEN:

No, that's all right.

CHAIRMAN MONTANO:

Okay, let's go. On the motion, all in favor of tabling? All opposed? Abstentions?

LEG. ALDEN:

Opposed.

CHAIRMAN MONTANO:

One opposition, motion carries. ***Tabled (VOTE: 4•1•0•2 Opposed: Legislator Alden • Not Present: Legislators Losquadro & Schneiderman).***

IR 1685•06 • Adopting Local Law No. 2006, a Charter Law to clarify and strengthen provisions limiting amendments to the Capital Budget and Program (Presiding Officer Lindsay).

LEG. COOPER:

Motion to approve.

CHAIRMAN MONTANO:

Motion to approve. Do I hear a second?

LEG. D'AMARO:

Second.

CHAIRMAN MONTANO:

Second by Legislator D'Amaro.

LEG. ALDEN:

On the motion.

CHAIRMAN MONTANO:

Any comments on the motion?

LEG. ALDEN:

Yeah, just an explanation, please?

MR. NOLAN:

This Charter Law has to do with Section C4•13 and C4•21 which has to do with amending the Capital Budget during the fiscal year.

Presently, if you •• in general terms, if you want to increase spending for a Capital Project, there has to be an offset. And what this law seeks to do really is try to separate out Sewer District projects and non Sewer District projects and, in essence, treat them separately when it comes to the offsets. So that if during the fiscal year there was a budget amendment to increase spending for a project, non sewer district, you cannot use a sewer district project as an offset and vice versa. If during the fiscal year there's an amendment to increase a sewer district project, there also has to be an offset but the offset could come via transfer from the Assessment Stabilization Reserve Fund, connection fees, fund balance surplus or other revenues generated by the same Sewer District.

I should note that in terms of Sewer District amendments during the year, despite the fact there's an offset, it would require a two•thirds vote as opposed to a simple majority. The law has been further amended in recent days to require that when the County Executive submits his Capital Budget and Program, he separates Capital Projects for Sewer Districts and non Sewer Districts, and when the County Legislature approves the Capital Budget and Program it does the same thing.

I'm almost done. The last point is, again, this was amended to make this law subject to a referendum question in November.

LEG. ALDEN:

Through the Chair?

CHAIRMAN MONTANO:

Go ahead, Legislator Alden.

LEG. ALDEN:

If I'm not already listed as a cosponsor ••

CHAIRMAN MONTANO:

Oh, I'm sorry.

LEG. VILORIA•FISHER:

I can wait.

CHAIRMAN MONTANO:

You can wait? Okay, Legislator Alden.

LEG. ALDEN:

If I'm not already listed as a cosponsor, I'd like to be listed as a cosponsor.

CHAIRMAN MONTANO:

Okay. Legislator Viloría•Fisher?

LEG. VILORIA•FISHER:

I would just like to ask a question of Budget Review. Regarding an offset that we looked at yesterday in the Environment Committee, that was a Sewer District project in the Capital Program, so would this preclude that type of offset being used?

MR. LIPP:

Correct. In the future it would once this was adopted.

LEG. VILORIA•FISHER:

Right.

MR. LIPP:

But currently, that resolution can be approved, if desired.

LEG. VILORIA•FISHER:

And can you just give me a little bit of Sewer District 101 here? So that \$46 million •• now, as I'm reading the Legislative Intent in 1685, it says that the monies in the project are monies that are •• I'm trying to read •• that the project debt is paid by residents of individual Sewer Districts; is that true of that \$46 million project for the Southwest Sewer District?

MR. LIPP:

What would happen is this would preclude using a non •• if you will, non •County•wide Capital Project as an offset.

LEG. VILORIA•FISHER:

Okay, but in the one that we were talking about yesterday, that was a County•wide funded?

MR. LIPP:

No, no. Well, what we were talking about yesterday was it was Southwest Sewer District, the incinerator, and if you remember, it was decided that we weren't going to appropriate those funds ••

LEG. VILORIA•FISHER:

Yeah, but my question is was that money that came from the residents of that district who paid into that Sewer District or was that from a County •wide fund?

MR. LIPP:

That was from the Sewer District.

LEG. VILORIA•FISHER:

From the residents of that district.

MR. LIPP:

Yes, but I would hesitate to say it came from them because the money was never appropriated or spent.

LEG. VILORIA • FISHER:

Right, but the money would have been ••

MR. LIPP:

Would have if it was, correct.

LEG. VILORIA • FISHER:

Okay, that was my question. And I certainly think that this is on the right track, I think this is a very good provision. Thank you.

CHAIRMAN MONTANO:

Okay. Legislator D'Amaro?

LEG. D'AMARO:

Just a question for Counsel. I just wanted to know what would be the earliest effective date of this should it pass in the upcoming session, and also what's the earliest budget it would affect?

MR. NOLAN:

It would be for the next Capital Budget because this will be effective January 1 of '07, if approved by the Electorate.

LEG. D'AMARO:

(Inaudible).

MR. NOLAN:

No, the cap does not.

CHAIRMAN MONTANO:

Okay. Mr. Zwirn.

MR. ZWIRN:

I just want to •• on behalf of the County Exec, I just want to thank Presiding Officer Lindsay and Legislator Cooper for their cooperation and leadership in

this. It was a good collaboration and the County Executive is very pleased with these two bills.

CHAIRMAN MONTANO:

So noted. All in favor? Opposed? Abstentions? Motion carries. ***Approved (VOTE: 5•0•0•2 Not Present: Legislators Losquadro & Schneiderman).***

IR 1788•06 • A Common Sense Cost Mitigating Offset Plan for the cents•per•gallon sales tax (Losquadro).

LEG. COOPER:

Motion to table.

CHAIRMAN MONTANO:

Motion to table. Do I hear a second?

LEG. D'AMARO:

Second.

CHAIRMAN MONTANO:

No comment, we'll move to a vote. All in favor of tabling? Opposed? Abstentions?

LEG. ALDEN:

One opposed.

CHAIRMAN MONTANO:

One opposed, motion carries. ***Tabled (VOTE: 4•1•0•2 Opposed: Legislator Alden • Not Present: Legislators Losquadro & Schneiderman).***

IR 1815•06 • Establishing a program to reduce unfair home energy nuisance taxes on Suffolk County residents (Alden). I've been asked by the Chairman of this committee to hold this off until we consider the budget for next year, so I'll make a motion to table.

LEG. COOPER:

Second.

CHAIRMAN MONTANO:

I'll second it. All in favor? Opposed? Abstentions? ***Tabled (VOTE: 5•0•0•2 Not Present: Legislators Losquadro & Schneiderman).***

IR 1816•06 • Repealing Home Energy Nuisance Taxes on Suffolk County residents (Alden). Same thing and I'm going to make a motion to table it.

CHAIRMAN MONTANO:

Same motion, same second, same vote. Motion carries. ***Tabled (VOTE: 5•0•0•2 Not Present: Legislators Losquadro & Schneiderman).***

Introductory Resolutions

1904•06 • To readjust, compromise and grant refunds and chargebacks on correction of errors/County Treasurer by: County Legislature #251 (County Executive). I'm going to make a motion to approve and to place on the consent calendar.

LEG. COOPER:

Second.

LEG. ALDEN:

Second.

(*Legislator Losquadro entered the meeting at 10:57 AM*)

CHAIRMAN MONTANO:

All in favor? Opposed? Abstentions? Motion carries. ***Approved and placed on the consent calendar (VOTE: 6•0•0•1 Not Present: Legislator Schneiderman).***

IR 1905•06 • To readjust, compromise and grant refunds and chargebacks on real property, correction of errors/County Legislature Control #755•2006 (County Executive). Same motion, if you don't mind, same second, same vote. ***Approved and placed on the consent calendar (VOTE: 6•0•0•1 Not Present: Legislator Schneiderman).***

IR 1908•06 • To readjust, compromise and grant refunds and chargebacks on correction of errors/County Treasurer by: County Legislature #250 (County Executive). If you don't mind, same motion, same second, same vote. ***Approved and placed on the consent calendar (VOTE: 6•0•0•1 Not Present: Legislator Schneiderman).***

IR 1931•06 • Repealing sales and compensating use taxes on bio •diesel fuel used for home heating (Romaine). That's the one we had extensive debate on, or commentary.

LEG. VILORIA•FISHER:

Motion to table.

CHAIRMAN MONTANO:

Would you like to address the Legislature on this?

MR. BROWN:

Sure, Mr. Chair, thank you. Members of the committee, thank you.

CHAIRMAN MONTANO:

I'll hold off your motion, Legislator Fisher, until he addresses it.

MR. BROWN:

Sure.

CHAIRMAN MONTANO:

Identity for the record.

MR. BROWN:

Mr. Chair, thank you, Members of the Committee, thank you. Dennis Brown from the Department of Law. And earlier Mr. Nolan had talked about segmenting out bio•diesel fuels, being impermissible and to 1210 of the Tax Law fuel and our review would concur with that. Thank you.

CHAIRMAN MONTANO:

Thank you very much. All right, Legislator Vilorio•Fisher has a motion to table, I'll second it. Any comment?

LEG. ALDEN:

Call the vote.

CHAIRMAN MONTANO:

I'll call the vote. All in favor? Opposed? Abstentions?

Motion carries. ***Tabled (VOTE: 6•0•0•1 Not present: Legislator Schneiderman).***

IR 1985•06 • Of the Suffolk County Legislature electing a cents per gallon rate of sales and compensating use taxes on motor fuel and diesel fuel in lieu of the percentage rate of such taxes with a \$3 cap pursuant to the authority of Article 29 of the Tax Law of the State of New York (Schneiderman). Brief explanation. No fiscal impact statement on that?

MR. NOLAN:

My last information there was no fiscal impact. This simply, by the way, caps the tax on gasoline at \$3.

CHAIRMAN MONTANO:

Okay. But we have no fiscal impact statement; is that correct?

MR. LIPP:

The answer is I could provide it within 20 minutes if you want to wait.

CHAIRMAN MONTANO:

We won't be here in 20 minutes.

LEG. COOPER:

Don't bother.

CHAIRMAN MONTANO:

I'm going to make a motion to table.

LEG. COOPER:

Second.

CHAIRMAN MONTANO:

Second. Any comment?

LEG. VILORIA•FISHER:

Good answer, Robert.

CHAIRMAN MONTANO:

All in favor of tabling? Opposed? Abstentions? ***Motion to table carries (VOTE: 6•0•0•1 Not present: Legislator Schneiderman).***

1998•06 • To readjust, compromise and grant refunds and chargebacks on correction of errors/County Treasurer by: County Legislature #237 (County Executive). I'm going to make a motion to approve and place on the consent calendar.

LEG. COOPER:

Second.

CHAIRMAN MONTANO:

Second by Legislator Cooper. All in favor? Opposed? Abstentions? Motion carries. ***Approved and placed on the consent calendar (VOTE: 6•0•0•1 Not Present: Legislator Schneiderman).***

IR 2024•06 • Adopting offsets in connection with cap on gasoline sales tax (Schneiderman).

MR. NOLAN:

Same problem.

CHAIRMAN MONTANO:

Same problem. I'm going to make a motion to table. Do I hear a second?

LEG. COOPER:

Second.

CHAIRMAN MONTANO:

Any comment? Motion. All in favor? Opposed? Abstentions?

Motion to table carries. ***Tabled (VOTE: 6•0•0•1 Not Present: Legislator Schneiderman).***

IR 2029•06 • Adopting Local Law No. 2006, a Charter Law to simplify and clarify Operating and Capital Budget Property Tax Impact Statements (County Executive). I think we need to table this for a public hearing, I'll make the motion.

LEG. COOPER:

Second.

CHAIRMAN MONTANO:

Second. All in favor? Opposed? Abstentions? Motion carries.

Tabled (VOTE: 6•0•0•1 Not present: Legislator Schneiderman).

IR 2030•06 • To extend the deadline for the Homeowners Tax Reform Commission (Presiding Officer Lindsay).

LEG. COOPER:

Motion to approve.

CHAIRMAN MONTANO:

I'll second that. Any discussion? All in favor? Opposed? Abstentions?

Motion is approved (VOTE: 6•0•0•01 Not Present: Legislator

Schneiderman).

With that, I'm going to adjourn this meeting, we've concluded our business.
Thank you very much.

(*The meeting was adjourned at 11 AM*)

***Legislator Ricardo Montano, Chairman
Budget & Finance Committee Meeting***

{ } • Denotes Spelled Phonetically